IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 106/2005

MAHENDRA & ORS. Vs. STATE OF RAJASTHAN & ANR.

DATE: 01.05.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Manish Kumawat for the accused-petitioners.
Mr. B.K. Sharma, Public Prosecutor for the State.
Mr. Ram Sharan Sharma for the complainant-respondent.

****

The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the accused-petitioners against the order dated 20.11.2004 passed by the Additional District & Sessions Judge, Khetri in Sessions Case No. 13/2004, whereby charges for the offences under Sections 341, 323, 323/34, 324, 324/34, 307 and 307/34 IPC have been framed against the accused-petitioners.

Learned counsel appearing for the accused-petitioners submits that no case under Section 307 IPC is made out against the accused-petitioners and further submits that as per the injury reports no grievous injury has been sustained by the injured and the injuries are simple in nature and alleged to be caused

with knife.

In support of his submissions, the learned counsel for the petitioners placed reliance on the judgment rendered by this Court in the case of **Kajod Vs. Ramu and Others, reported in 1984(9) RCC 167,** wherein it has been held that when accused armed with deadly sharp edged weapon but no injury dangerous to life is alleged to have been inflicted and no case under Section 307 IPC made out.

He further placed reliance on the judgment rendered by this Court in the case of **Pradeep Kumar Vs. State of Rajasthan, reported in 1987(12) RCC 142,** wherein it has been held that though accused used knife but caused only simple injury, only one injury was inflicted; in these circumstances it cannot be inferred that accused had any intention of causing such a grievous injury which could be dangerous to the life of injured. Therefore, charge under Section 307 IPC cannot be sustained.

I have heard rival submissions of the respective parties and have also gone through the impugned order dated 20.11.2004 as well as the injury reports placed by the learned counsel for the accused-petitioners for perusal of this Court.

A bare perusal of the injury report would reveal that all the injuries are simple in nature though it is alleged that the accused-petitioners were armed with knife. It is not observed by the doctor that the injuries received by the injured are dangerous to life.

Thus, having considered the rival submissions of the respective parties and upon careful perusal of the judgments referred before me as also the injury report as well as the impugned order dated 20.11.2004 by which charges have been framed against the accused-petitioners for the offence under Sections 341, 323, 323/34, 324, 324/34, 307 and 307/34 IPC, so far as charge framed against the accused-petitioners under Sections 307 and 307/34 IPC is concerned, no case under Section 307 IPC is made out against the petitioners as per the injury report.

Therefore, the impugned order dated 20.11.2004 passed by the Additional Sessions Judge, Khetri is hereby quashed and set-aside so far as framing charge against the accused-petitioners for the offence under Sections 307 and 307/34 IPC is concerned and the matter is remanded back to the Court below for reconsideration and shall pass fresh order after perusal of the injury reports and the opinion of the doctor.

So far as charges framed against the accused-petitioners for the offences under Sections 341, 323, 323/34, 324 and 324/34 IPC is concerned, the impugned order dated 20.11.2004 is upheld but as regards framing charge against the petitioners under Sections 307 and 307/34 IPC the impugned order dated 20.11.2004 is quashed and set-aside and the matter is remanded back to the Court below for fresh adjudication as observed herein above.

With these observations, the revision petition stands partly allowed.

(K.S. RATHORE),J.

/KKC/